

CHAPTER 17. CAMPUS PLANNING

Subchapter A. GENERAL PROVISIONS

Section

- 17.1. Purpose and Scope.
- 17.2. Authority.
- 17.3. Definitions.

17.1. Purpose and Scope.

The purpose of this chapter is to provide guidance to the public and to public institutions of higher education regarding approval or disapproval of construction projects, property acquisitions, or lease-purchase arrangements; assuring maximum use of facilities; developing standards and policies for management of physical plants designed to streamline operations and improve accountability; and to achieve the goals of the higher education plan approved by the Board.

17.2. Authority.

Texas Education Code, Section 61.0572, requires the Board to assure the efficient use of construction funds and the orderly development of physical plants to accommodate projected college student enrollments. Texas Education Code, Section 61.058, authorizes the Board to approve or disapprove all new construction and repair and rehabilitation of buildings and facilities at institutions. Texas Education Code, Section 61.0582, requires that each institution submit a campus master plan to the Board, and Texas Education Code, Section 61.0583, requires the Board to conduct a comprehensive audit of all educational and general facilities. Texas Education Code, Section 51.927, authorizes the Board to establish guidelines and an approval process for awarding energy savings performance contracts.

17.3. Definitions.

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

- (1) Acquisition--To come into possession or control of real property or facilities. This includes the acceptance, purchase, lease-purchase, sale, transfer, or exchange of land or facilities.
- (2) Academic Facilities--Facilities used for primary instruction, research, and public service functions of the institution. Typical academic facilities include classrooms, libraries, administrative and faculty offices, and student and research laboratories.
- (3) Addition--Expansion or extension of an existing facility that increases its size or capacity.
- (4) Assignable Area of a Building--The sum of all areas within the interior walls of rooms on all floors of a building assigned to, or available for assignment to, an occupant or use, excluding unassigned space. This is also referred to as net assignable square feet (NASF).

(5) Athletic Facilities--Facilities used for athletic programs, including intercollegiate athletics, intramural athletics, and athletically-oriented academic programs.

(6) Auxiliary Enterprise Buildings or Space—Income-generating structures and space such as dormitories, cafeterias, student union buildings, stadiums, athletic facilities, housing or boarding facilities used by a fraternity, sorority, or private club, and alumni centers used solely for those purposes. Auxiliary space is not supported by State appropriations.

(7) Board or Coordinating Board--The Texas Higher Education Coordinating Board members and the agency.

(8) Building--A structure with at least two walls for permanent or temporary shelter of persons, animals (excluding animal caging equipment), plants, materials, or equipment that is attached to a foundation, roofed, serviced by a utility (exclusive of lighting), is a source of maintenance and repair activities, and is under the control or jurisdiction of the institution's governing board, regardless of its location.

(9) Campus Deferred Maintenance Plan (MP2)--A detailed report of institutional programs to address deferred maintenance and critical deferred maintenance.

(10) Campus Master Plan--A detailed audit of institutional physical plant needs, including facilities construction and/or development, and campus facilities infrastructure; the plan provides long-range and strategic analyses and facilities development guidelines.

(11) Certification--Institutional attestation of reports or other submissions as being true or as represented.

(12) Classroom--A room used for scheduled classes. These rooms may be called lecture rooms, lecture-demonstration rooms, seminar rooms, or general purpose classrooms. A classroom may contain multimedia or telecommunications equipment, such as those used for distance learning. A classroom may be furnished with special equipment (e.g., globes, maps, pianos) appropriate to a specific area of study. A classroom does not include conference rooms, meeting rooms, auditoriums, or class laboratories.

(13) Class Laboratory--A room used primarily by regularly scheduled classes that require special-purpose equipment for student participation, experimentation, observation, or practice in a field of study. Class laboratories may be referred to as teaching laboratories, instructional shops, computer laboratories, drafting rooms, band rooms, choral rooms, group studios. Laboratories that serve as individual or independent study rooms are not included.

(14) Clinical Facility--A facility often associated with a hospital or medical school that is devoted to the diagnosis and care of patients in the instruction of health professions and allied health professions; medical instruction may be conducted, and

patients may be examined and discussed. Clinical facilities include, but are not limited to, patient examination rooms, testing rooms, and consultation rooms.

(15) Committee on Campus Planning--The members of the Board appointed to consider facility-related issues.

(16) Commissioner--The chief executive officer of the Texas Higher Education Coordinating Board.

(17) Critical Deferred Maintenance--The physical conditions of a building or facility that places its occupants at risk of harm or the facility at risk of not fulfilling its functions.

(18) Deferred Maintenance--An existing or imminent building maintenance-related deficiency from prior years or the current year that needs to be corrected, or scheduled preventive maintenance tasks that were not performed because other tasks funded within the budget were perceived to have higher priority status. The accumulation of facility components in need of repair brought about by age, use, or damage for which remedies are postponed or considered backlogged. This may include those repairs postponed due to insufficient funding.

(19) Diagnostic Support Laboratory—the central diagnostic service area for a health care facility. Included are pathology laboratories, pharmacy laboratories, autopsy rooms, isotope rooms, etc., providing such services as hematology, tissue chemistry, bacteriology, serology, blood banks, and basal metabolism. In veterinary facilities, this includes necropsy rooms.

(20) Education and General (E&G)--Space used for teaching, research, or the preservation of knowledge, including the proportional share used for those activities in any building or facility used jointly with auxiliary enterprise, or space that is permanently unassigned. E&G space is supported by state appropriations.

(21) Emergency--An unforeseen combination of circumstances that calls for immediate action and requires an urgent need for assistance or relief that, if not taken, would result in an unacceptable cost to the state; or, an urgent need for assistance or relief due to a nature disaster; or, an unavoidable circumstance whereby the delay of the project approval would critically impair the institution's function.

(22) Eminent Domain--A legal process wherein the institution takes private property for public use.

(23) Energy Systems--Infrastructure in a building that includes facility electric, gas, heating, ventilation, air conditioning, and water systems.

(24) Energy Savings Performance Contract--A contract for energy or water conservation measures to reduce energy or water consumption or operating costs of institutional facilities. The estimated savings in utility costs resulting from the conservation measures is guaranteed to offset the cost of the measures over a specified period.

(25) Facilities Audit--Comprehensive review of institutional facility development, planning activities, and reports.

(26) Facilities Inventory--A collection of building and room records that reflects institutional space and how it is being used. The records contain codes that are uniformly defined by the Board and the United States Department of Education and reported by the institutions on an ongoing basis to reflect a current facilities inventory. The facilities inventory includes a record of property owned by or under the control of the institution.

(27) Facilities Development Plan (MP1)--A detailed formulation of institutional programs to address deferred maintenance, critical deferred maintenance, facilities construction, or physical plant development.

(28) Financing Directly Derived from Students--Funds resulting from the collection of fees or other charges to students, such as designated tuition, student activities fees, housing revenue, bookstore or student union revenue, etc. Bond proceeds for which one or more of these sources provides debt service shall also be considered financing directly derived from students.

(29) Financing Indirectly Derived from Students--Funds generated from funds accumulated from students, primarily interest on funds accumulated directly from students.

(30) Gift--A donation or bequest of money or another tangible item, a pledge of a contribution, or the acquisition of real property or facilities at no cost to the state or to the institution. It may also represent a method of finance for a project.

(31) Gross Square Feet (GSF)--The sum of all square feet of floor areas within the outside faces of a building's exterior walls. This includes the areas, finished and unfinished, on all floors of an enclosed structure, i.e., within the environmentally controlled envelope, for all stories or areas which have floor surfaces.

(32) Housing Facility--A single- or multi-family residence used exclusively for housing or boarding students, faculty, or staff members.

(33) Information Resource Project--Projects related to the purchase or lease-purchase of computer equipment, purchase of computer software, purchase or lease-purchase of telephones, telephone systems, and other telecommunications and video-teleconferencing equipment.

(34) Intercollegiate Athletic Facility--Any facility used primarily to support intercollegiate athletics, including stadiums, arenas, multi-purpose centers, playing fields, locker rooms, coaches' offices, and similar facilities.

(35) Infrastructure--The underlying foundation or basic framework of a building or facility, including but not limited to, plumbing, heating/ventilation/air conditioning, electrical, sewage, drainage, architectural, safety and Code compliance, roads, grounds, and landscaping.

(36) Institution or institution of higher education--A Texas public institution of higher education as defined in Texas Education Code, Section 61.003(8), except a community/junior college.

(37) Legislative Authority--Specific statutory authorization.

(38) Lease--A contract by which real estate, equipment, or facilities are conveyed for a specified term and for a specified rent. Includes the transfer of the right to possession and use of goods for a term in return for consideration. Unless the context clearly indicates otherwise, the term includes a sublease.

(39) Lease-Purchase--A lease project that includes the acquisition of real property by sale, mortgage, security interest, pledge, gift, or any other voluntary transaction at some future time.

(40) Net Assignable Square Feet (NASF)--The sum of all areas within the interior walls of rooms on all floors of a building assigned to, or available for assignment to, an occupant or use, excluding unassigned areas. NASF includes auxiliary space and E&G space.

(41) New Construction--The creation of a new building or facility, the addition to an existing building or facility, or new infrastructure that does not currently exist on campus. New construction would add square footage to an institution's existing space.

(42) Non-student Sources--Funds generated from athletic department operations, gifts and grants, facility usage fees, related revenue, and appropriated funds.

(43) NCAA Football Bowl Championship Series--A program of the NCAA under which certain NCAA Division I-A football universities share proceeds of college bowl games.

(44) Phased Project--A project that has more than one part, each one having fixed beginning and ending dates, specified cost estimates, and scope. Phased projects consider future phase needs in the project plan; each phase is able to stand alone as an individual project.

(45) Private Funding--Gifts, grants, or other funds to be used for facilities development projects that are provided by persons or entities other than the university or institution requesting consideration of the project.

(46) Project--A task or activity that includes the construction, repair, renovation, addition, alteration of a building or facility or its infrastructure, or the acquisition of real property.

(47) Real Property--Land with or without improvements such as buildings.

(48) Repair and Renovation (R&R)--Construction upgrades to an existing building, facility, or infrastructure that currently exists on campus; this includes the finish-out of shell space. R&R may add E&G space, but does not increase a building or facility's overall gross square footage.

(49) Replacement Value--The value of an institution's overall campus facilities, as determined annually by the Board. The method of calculation is based upon recently approved Board project costs, with adjustments based upon room types and the institution's location within the state. Replacement values for public universities, the Lamar State Colleges, and the Texas State Technical Colleges are calculated only for E&G space. Replacement values for public health-related institutions are calculated for the NASF space. Replacement values are used to measure the validity of construction projects that are submitted to the Board for approval and are not recommended for insurance purposes.

(50) Research Facility--A facility used primarily for experimentation, investigation, or training in research methods, professional research and observation, or a structured creative activity within a specific program. Included are laboratories used for experiments or testing in support of instructional, research, or public service activities.

(51) Shell Space--An area within a building with an unfinished interior designed to be converted into usable space at a later date.

(52) Space Need--The result of the comparison of an institution's actual space to the predicted need as calculated by the Board's Space Projection Model.

(53) Standard--Basis, criteria, or benchmark used for evaluating the merits of a project request or an institutional comparison to a benchmark.

(54) Tracking Report--Institutional reports indicating the status of approved projects.

(55) Tuition Revenue Bonds Project--A project for which an institution has legislative authority to finance a construction or land acquisition project as provided for in Texas Education Code, Sections 55.01 – 55.25.

(56) Unimproved Real Property--Real property on which there are no buildings or facilities.

CHAPTER 17. CAMPUS PLANNING

Subchapter B. BOARD APPROVAL

Section

- 17.10. Board Approval
- 17.11. Projects Exempt from Board Approval.
- 17.12. Delegation of Authority.
- 17.13. Approval Considerations.
- 17.14. Re-Approval of Projects.

17.10 Board Approval.

(a) Unless exempted from Board approval under the provisions of Section 17.11 of this title (relating to Projects Exempt from Board Approval), the Board shall approve or

disapprove the following projects or phase of a project at institutions of higher education, regardless of funding source:

- (1) New construction of building and facilities and/or additions to buildings and facilities;
- (2) Repair and renovation projects for buildings and facilities;
- (3) Unimproved and improved real property purchases;
- (4) Improved real property acquired by gift or lease-purchase if the institution intends to include the improved real property in its E&G buildings and facilities inventory and the value of the improved property is more than \$300,000;
- (5) Auxiliary enterprise projects;
- (6) Intercollegiate Athletic projects; and
- (7) Energy Savings Performance Contract projects.

(b) If an institution does not obtain Board approval for these projects, a notification of noncompliance shall be sent to the president of the institution by the Commissioner, requesting that a project application be submitted for consideration, and an explanation of the reason for not seeking Board approval for the project shall be included. A copy of the notification shall be provided to the Board members, chairman of the institution's governing board, Governor, Lieutenant Governor, Speaker of the House of Representatives, the State Auditor, and the Legislative Budget Board.

17.11. Projects Exempt from Board Approval.

The following types of projects are exempt from Board approval:

- (1) New construction projects costing less than \$1 million;
- (2) Repair and renovation projects costing less than \$2 million;
- (3) Projects at The University of Texas at Austin, Texas A&M University, and Prairie View A&M University financed more than 50 percent with Permanent University Fund bond proceeds or Available University Fund funds;
- (4) Construction, repair, or rehabilitation of privately owned buildings and facilities on land leased from an institution if the construction, repair, or rehabilitation is financed entirely from funds not under the control of the institution;
- (5) Gifts, grants, or lease-purchase arrangements intended for clinical or research facilities;
- (6) New construction or repair and rehabilitation projects to be undertaken pursuant to specific legislative authority;

- (7) Lease of property or facilities;
- (8) Gifts or lease-purchase of unimproved real property; and
- (9) Gifts or lease-purchase of improved real property that the institution does not intend to include in its E&G buildings and facilities inventory and the value of the improved real property is \$300,000 or less.

17.12. Delegation of Approval Authority.

(a) Commissioner. The Board authorizes the Commissioner to review or approve the following types of projects upon certification of authority by the proposing institution's governing board, providing the project meets all of the specified Board standards for that project type:

- (1) New construction with a total project cost of not more than \$5 million;
- (2) Repair and renovation of existing buildings or facilities with a total project cost of not more than \$5 million;
- (3) Gifts or acquisition of improved real property with E&G space having a value of not more than \$300,000;
- (4) Purchase of real property having a value of not more than \$300,000;
- (5) Evaluation of projects funded more than 50 percent with tuition revenue bond proceeds that meet Board standards;
- (6) Auxiliary enterprise projects being acquired, constructed, or renovated without the use of state general revenue funds and with a total project cost of not more than \$10 million;
- (7) Projects previously reviewed or approved by the Commissioner but requiring first or second reconsideration under the provisions of Section 17.14 of this title (relating to Re-approval of Projects), providing they continue to be eligible for Commissioner approval; and
- (8) Projects previously reviewed or approved by the Board, Committee, or Commissioner that require reconsideration under the provisions of Section 17.14 of this title (relating to Re-approval of Projects) relating to any change in the funding source of an approved project; and
- (9) Emergency requests eligible for Commissioner approval under the provisions of Section 17.22 of this title (relating to Emergency Approval of Projects).

(b) Committee on Campus Planning. The Board authorizes the Committee on Campus Planning to approve the following types of projects, upon certification of authority by the proposing institution's governing board:

- (1) New construction projects having a total project cost more than \$5 million but not more than \$10 million;

- (2) Repair and renovation of existing buildings or facilities having a total project cost of more than \$5 million;
 - (3) Purchase of real property having a value more than \$300,000 but not more than \$5 million;
 - (4) Gifts or acquisition of improved real property with E&G space having a value more than \$300,000 but not more than \$5 million;
 - (5) Evaluation of projects funded more than 50 percent with tuition revenue bond proceeds and not qualifying for Commissioner approval;
 - (6) Auxiliary enterprise projects costing more than \$10 million but more than \$20 million;
 - (7) Projects previously approved but requiring re-approval under the provisions of Section 17.14 of this title (relating to Re-approval of Projects) and not eligible for re-approval by the Commissioner;
 - (8) Any new construction, major repair and renovation, or property acquisition submitted by a system that only affects the system, and not a component institution;
 - (9) Emergency requests eligible for Committee approval under the provisions of Section 17.22 of this title (relating to Emergency Approval of Projects).
 - (10) Any project referred to the Committee on Campus Planning by the Commissioner; and
 - (11) Any project requiring a third re-approval under the provisions of Section 17.14 of this title (relating to Re-approval of Projects).
- (c) Board. The following types of projects shall be approved by the Board:
- (1) New construction with a total project cost of more than \$10 million;
 - (2) Purchase of real property having a value of more than \$5 million;
 - (3) Gifts or acquisition of improved real property with E&G space having a value of more than \$5 million;
 - (4) Auxiliary enterprise projects costing more than \$20 million; and
 - (5) Any project referred to the Board by the Committee on Campus Planning or the Commissioner.
- (d) The Commissioner may refer projects to the Committee on Campus Planning or the Board. The Committee on Campus Planning may refer projects to the Board.
- (e) Decisions of the Committee on Campus Planning are final. Decisions of the Commissioner may be appealed to the Board.

17.13. Approval Considerations.

(a) The Board's consideration and determination shall be limited to the purpose for which the new or remodeled buildings are to be used to assure conformity with approved space utilization standards and the institution's approved programs, role, and mission.

(b) The Board shall consider the purpose for which the new or remodeled buildings are to be used, cost factors, and the financial implications of the project to the state.

(c) The Board shall consider the extent to which each of the standards outlined in Sections 17.30 - 17.51 of this title (relating to Rules Applying to New Construction and Addition Projects, Repair and Renovation Projects, and Real Property Acquisition Projects) have been met.

(d) The Board shall ascertain that standards and specifications for new construction or repair and rehabilitation of all buildings and facilities are in accordance with Texas Government code, Sections 469.001 – 469.105, concerning the elimination of architectural barriers.

17.14. Re-approval of Projects.

(a) Previously approved construction and renovation projects shall be resubmitted to the Board for re-approval if:

(1) the total cost of a project exceeds cost estimates by more than 10 percent; or

(2) gross square footage is changed by more than 10 percent; or

(3) the institution has not contracted for the project within 18 months from its final Board approval date; or

(4) any funding source of an approved project is changed.

(b) Approvals for the purchase of real property are valid for two years from the date of Board approval. Property acquisitions not completed in that time shall be resubmitted.

CHAPTER 17. CAMPUS PLANNING

Subchapter C. RULES APPLYING TO ALL PROJECTS

Section

17.20. Criteria for Approval of Projects

17.21. Application Procedures

17.22. Emergency Approval of Projects

7.20. Criteria for Approval of Projects.

Projects considered for approval shall meet the following criteria:

(1) The project shall meet all applicable Board standards as described in Sections 17.30 – 17.51 of this title (relating to Rules Applying to New Construction and Addition Projects, Repair and Renovation Projects, and Real Property Acquisition Projects).

(2) If the project financing involves private gift or grant funds, these funds are either in-hand or the governing board shall commit an alternative source of funds, or if the private gift or grant funds are not received, the governing board agrees to forego the project.

(3) If the project causes an increase in student fees, such increases are executed in accordance with the applicable laws concerning approval by the student body.

(4) If the project involves construction of a dormitory, bookstore, food service facility, or other facility for which privatization may be a viable alternative, the governing board shall have considered the feasibility of privatization of both construction and operation of the facility.

(5) If applicable, the project complies with the minimum flood plain management standards established by the Texas Commission on Environmental Quality (TQEC) and the Federal Emergency Management Agency (FEMA).

(6) If the project includes the acquisition of real property, the governing board shall have given appropriate consideration to the effect of the acquisition on residential neighborhoods.

(7) If the project includes the acquisition of real property, the acquisition shall be included in the institution's long-range campus master plan.

(8) The project shall be included in the institution's most recently submitted Facilities Development Plan (MP1 report) or the institution shall certify that the project represents an opportunity or emergency that could not be foreseen.

(9) If applicable, the project complies with Texas Government Code, Sections 469.001 - 469.105, concerning the elimination of restrictive barriers.

(10) The project shall comply with Life Safety Standards adopted by the State Fire Marshal.

(11) The institution verifies that the project complies with Texas Government Code, Section 447.004, regarding energy efficiency and shall provide a Certificate of Compliance to the State Energy Conservation Office prior to occupancy. If the project involves energy savings or conservation, the governing board shall have considered the feasibility of an Energy Savings Performance Contract as a viable alternative.

(12) The institution shall verify that it will comply with Texas Government Code, Section 2161.252 – 2161.253, concerning Historically Underutilized Business Subcontracting Plans.

17.21. Application Procedures.

(a) Institutions shall request Board consideration for approval of projects on forms specified by the Board. The project application shall be submitted electronically.

(b) Institutions shall submit the following materials for the consideration of projects by the Commissioner, Committee on Campus Planning, or Board:

(1) a completed project application submitted electronically through the Board's website;

(2) a signed Board of Regents Certification form certifying that the institution's Board of Regents has approved the project and that the project meets the criteria specified in Section 17.20 of this title (relating to Criteria for Approval of Projects);

(3) a signed verification of compliance with applicable state and or federal requirements, and

(4) any other documentation or information the institution believes will assist in the evaluation of the project.

(c) Project submission schedule:

(1) Projects to be considered by the Commissioner may be submitted at any time.

(2) Projects to be considered by the Committee on Campus Planning or the Board shall be submitted at least 70 days prior to the regularly scheduled Board meeting at which consideration is desired.

17.22. Emergency Approval of Projects.

(a) An emergency project may be approved by the Commissioner or the Committee on Campus Planning between regularly scheduled meetings of the Board. If necessary to address the emergency, the Commissioner may approve emergency projects between regularly scheduled meetings of the Board in consultation with the Chair of the Committee on Campus Planning.

(b) If an emergency project is approved by the Commissioner, the project shall be reported to the next regularly scheduled Committee on Campus Planning meeting.

(c) Approval of each emergency project shall be signed by the president of the institution. The president of the institution may not delegate this authority within the requesting institution.

CHAPTER 17. CAMPUS PLANNING

Subchapter D. RULES APPLYING TO NEW CONSTRUCTION AND ADDITION PROJECTS

Section

17.30. Standards for New Construction and/or Addition Projects.

17.31 Additional Requirements.

17.30. Standards for New Construction and/or Addition Projects.

To obtain Board approval for a new construction and/or addition project, an institution shall demonstrate that the project complies with the following standards:

(1) Institutional Standards. The institution shall demonstrate that a new construction and/or addition project complies with the following institutional standards:

(A) Deferred Maintenance.

(i) The Board standard for deferred maintenance shall be the ratio of campus deferred maintenance costs to replacement value of 5 percent or less.

(ii) If the ratio of campus deferred maintenance costs to replacement value is more than 5 percent, a project may be approved if the institution demonstrates that:

(I) the project is intended to reduce the deferred maintenance on the campus, or

(II) the institution has demonstrated a reduction in its deferred maintenance to replacement value ratio 10 percent or more for the immediate prior three years.

(iii) Alternatively, if the deferred maintenance to replacement value ratio is greater than 5 percent, a project may be approved if the institution:

(I) submits a written plan on a form specified by the Board for substantial progress toward meeting the standard; and

(II) provides the Board with a statement signed by the president of the institution, regarding its ability to support and maintain the proposed facility while continuing to address current institutional facility maintenance needs. The president of the institution may not delegate this authority.

(B) Critical Deferred Maintenance.

(i) The Board standard for critical deferred maintenance is zero.

(ii) If the critical deferred maintenance is greater than zero, a project may be approved if the institution:

(I) Develops an acceptable plan in place to address any critical deferred maintenance reported on the master plan; and

(II) the institution shall demonstrate progress towards meeting the plan goals; and

(III) the institution shall provide the Board with a statement signed by the president of the institution regarding its ability to support and maintain the proposed facility while continuing to address current institutional facility maintenance needs. The president of the institution may not delegate this authority.

(2) Project Standards. The institution shall demonstrate that a new construction or addition project complies with the following project standards:

(A) Space Need--The project shall not create a campus space surplus, or add to an existing surplus, as determined by the Board's space projection model report, required by Section 17.100 of this title (relating to Board Reports).

(i) If the institution has a predicted surplus of space in the current Space Projection Model report and the project is required to accommodate future predicted enrollment growth, the Board may consider a written plan from the institution, on a form specified by the Board, for substantial progress toward meeting the standard. The plan must include:

(I) an explanation of the expected growth and how the predicted growth will impact the institution;

(II) a demonstration of progress towards eliminating the surplus;

(III) a statement regarding the ability of the institution to support and maintain the proposed facility while continuing to address current institutional facility needs; and

(IV) a demonstration that, upon completion of the project, the institution will comply with the Board standard and eliminate the space surplus.

(V) The plan shall be signed by the president of the institution. The president of the institution may not delegate this authority within the requesting institution.

(ii) If more than one project is submitted for an agenda, all projects submitted for the current agenda will be considered in the determination of a campus surplus or deficit.

(B) Cost--The construction building cost per gross square foot shall be within the range of similar projects approved by the Board within the last five years, adjusted for inflation as described in the board's Construction Cost report (Section 17.100 of this title relating to Board Reports). If the construction cost per gross square foot exceeds the maximum cost of similarly approved projects, the cost per gross square foot shall not exceed the highest actual construction cost per gross square foot reported to R.S. Means.

(C) Efficiency--The ratio of NASF to GSF for the space in projects for classrooms and general purpose facilities shall be 0.60 or greater. Where the following specialized space is predominant in the project, the ratios of NASF to GSF shall be as follows:

- (i) Office space: 0.65 or greater;
- (ii) Diagnostic support laboratories: 0.50 or greater; and
- (iii) For mixed-use facilities, the ratio of NASF to GSF shall be calculated for each space type and considered separately.

17.31 Additional Requirements.

(a) In addition to the consideration of the standards provided in Section 17.30 of this title (relating to Standards for New Construction and/or Addition Projects), the Board shall consider the following space utilization guidelines for classroom and/or class laboratories:

- (1) For classrooms, 28 hours average weekly hours of use; and
- (2) For class laboratories, 25 hours of average weekly hours of use.

CHAPTER 17. CAMPUS PLANNING

Subchapter E. RULES APPLYING TO REPAIR AND RENOVATION PROJECTS

Section

17.40. Standards for Repair and Renovation Projects.

17.41. Additional Requirements.

17. 40. Standards for Repair and Renovation Projects.

To obtain Board approval for a repair or renovation project, an institution shall demonstrate that the project complies with the following standards:

- (1) Institutional Standards.

(A) The institution shall demonstrate that a repair or renovation project complies with the standards required in Section 17.30(1) of this title (relating to

Institutional Standards) and the additional requirements for space utilization described in Section 17.31 of this title (relating to Additional Requirement).

(2) Project Standards.

(A) Space Need and Cost--The institution shall demonstrate that the repair or renovation project complies with the standards required in Section 17.30(2)(A) - 17.30(2)(B) of this title (relating to Space Need and Cost).

(B) Efficiency--The institution shall demonstrate that the project does not reduce the existing ratio of NASF to GSF for the building.

17.41. Additional Requirements.

For projects for the repair and/or renovation of energy systems, an institution shall be required, in addition to the requirements of Section 17.21 of this title (relating to Application Procedures), to:

- (1) award an Energy Savings Performance Contract; or
- (2) demonstrate that an alternative to the use of an Energy Savings Performance Contract is in the best interest of the State.

CHAPTER 17. CAMPUS PLANNING

Subchapter F. RULES APPLYING TO REAL PROPERTY ACQUISITION PROJECTS

Section

17.50. Standards for Real Property Acquisition Projects

17.51. Additional Requirements

17.52. Eminent Domain

17.50. Standards for Real Property Acquisition Projects.

To obtain Board approval for a real property acquisition project, an institution shall demonstrate that the project complies with the following standards:

(1) Space Need--The institution shall demonstrate that the real property project complies with the standards required in Section 17.30(2)(A) of this title (relating to Space Need).

(2) Cost--The proposed purchase price shall be within the two appraisal values.

(3) Repair and Renovation--If the project includes repair and renovation of any improvements on the property, the standards in Section 17.40(2) (relating to Project Standards) shall apply.

17.51. Additional Requirements.

(a) Appraisals.

(1) If the cost of the real property is \$50,000 or more, an institution shall provide two appraisal reports providing a current value of the property. The most recent appraisal of the local property tax appraisal district may be used for one of these reports.

(2) If the cost of the real property is less than \$50,000, an institution shall submit a brief description of the information that it has relied upon to determine the current market value or provide an appraisal report estimating the current market value of the property.

(b) Appraiser Credentials. Any appraisal report provided to the Board under this section shall certify that the appraiser(s) meets one of the following requirements:

(1) Is a senior member of the Appraisal Institute (M.A.I, S.R.P.A. and S.R.A.);

(2) Is a senior member of the American Society of Appraisers with the professional designation in real estate; or

(3) Is a senior member or appraiser-counselor of the National Association of Independent Fee Appraisers (designated I.F.A.S. or I.F.A.C.).

(c) The requirement for appraisals in no way obligates the institution to release the figures to property owners during the acquisition process, nor does the requirement of appraisals deny the institution the right to settle a purchase at a price below the appraisals.

(1) An institution may place the word "Confidential" on each appraisal submitted to the Board under this section.

(2) The Board shall refer any public request for an appraisal that is marked "Confidential" to the Office of the Attorney General and provide notice to the institution that a request for the appraisal has been made under the Public Information Act found in Texas Government Code, Chapter 552.

(d) Eminent Domain.

(1) Board approval for acquisitions in which eminent domain may be necessary shall be obtained prior to the commencement of eminent domain proceedings.

(2) The institution shall provide to the Board evidence of good faith efforts made to reach an agreement with the property's owner.

(3) Upon resolution, the institution shall promptly report to the Board the costs associated with the eminent domain proceedings. Re-approval of the project by the Board shall not be necessary unless the court establishes a purchase price 10 percent higher than that approved by the Board.

CHAPTER 17. CAMPUS PLANNING

Subchapter G. RULES APPLYING TO AUXILIARY ENTERPRISE PROJECTS

Section

17.60. Standards for Auxiliary Enterprise Projects.

17 60. Standards for Auxiliary Enterprise Projects.

To obtain Board approval for an auxiliary enterprise project, an institution shall demonstrate that the project complies with the following standards:

(1) Institutional Standards. The institution shall demonstrate that an auxiliary enterprise project complies with the standards required in Section 17.30(1)(A) - 17.30(1)(B) of this title (relating to Deferred Maintenance and Critical Deferred Maintenance).

(2) Project Standards. The following basic standards shall apply to all auxiliary enterprise projects considered by the Board, Committee on Campus Planning, or the Commissioner:

(A) New construction and/or Additions--New construction of or additions to Auxiliary Enterprise Projects shall be considered under the provisions of Sections 17.30(2) of this title (relating to Project Standards).

(B) Repair and Renovation--Repair or renovation of Auxiliary Enterprise Projects shall be considered under the provisions of Section 17.40(2) of this title (relating to Project Standards) and Section 17.41 of this title (relating to Additional Requirements).

CHAPTER 17. CAMPUS PLANNING

Subchapter H. RULES APPLYING TO INTERCOLLEGIATE ATHLETIC PROJECTS

Section

17. 70. Standards applying to Intercollegiate Athletic Projects.

17. 71. Additional Requirements.

17.70. Standards applying to Intercollegiate Athletic Projects.

To obtain Board approval for an intercollegiate athletic project, an institution must demonstrate that the project complies with the following standards:

(1) Institutional Standards. The institution shall demonstrate that an Intercollegiate Athletic Project complies with the standards required in Section 17.30(1)(A) - 17.30(1)(B) of this title (relating to Deferred Maintenance and Critical Deferred Maintenance).

(2) Project Standards. The following basic standards shall apply to all Intercollegiate Athletic Projects considered by the Board, Committee on Campus Planning, or the Commissioner:

(A) New construction and/or Additions--New construction of or addition to an Intercollegiate Athletic Project shall be considered under the provisions of Sections 17.30(2) of this title (relating to Project Standards).

(B) Repair and Renovation--Repair or renovation of an Intercollegiate Athletic Project shall be considered under the provisions of Section 17.40(2) of this title (relating to Project Standards) and Section 17.41 of this title (relating to Additional Requirements).

17.71. Additional Requirements.

The following additional requirements shall be considered by the Board in evaluating projects that support intercollegiate athletics at Texas public universities:

(1) If a facility is used for both intercollegiate athletics and educational and general purposes, the cost of the facility shall be appropriately prorated.

(2) The use of student fees for financing construction projects that support intercollegiate athletics shall be limited to no more than 50 percent of the total project cost at Texas institutions that participate in the Bowl Championship Series and to 75 percent of the total project cost at other universities.

(3) For institutions participating in the NCAA Football Bowl Championship Series, Board approval of projects supporting intercollegiate athletics normally shall be conditional upon a finding that no more than 50 percent of the financing is derived, directly or indirectly, from students.

(4) For institutions not participating in the NCAA Football Bowl Championship Series, Board approval of projects supporting intercollegiate athletics shall normally be conditional upon a finding that no more than 75 percent of the financing is derived, directly or indirectly, from students.

(5) In making its findings, the Board may consider the total allocation of revenue supporting intercollegiate athletics.

CHAPTER 17. CAMPUS PLANNING

Subchapter I. RULES APPLYING TO ENERGY SAVINGS PERFORMANCE CONTRACT PROJECTS

Section

17.80. Projects Requiring Board Approval.

17.81. Standards for Energy Savings Performance Contract Projects.

17.82. Additional Requirements.

17.80. Projects Requiring Board Approval.

Board approval is required before an institution enters into an energy savings performance contract. Energy savings performance contracts include the installation or implementation of:

- (1) insulation of a building structure and systems within a building;
- (2) storm windows or doors, caulking or weather stripping, multi-glazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;
- (3) automatic energy control systems, including computer software and technical data licenses;
- (4) heating, ventilating, or air conditioning system modifications or replacements that reduce energy or water consumption;
- (5) lighting fixtures that increase energy efficiency;
- (6) energy recovery systems;
- (7) electric systems improvements;
- (8) water-conserving fixtures, appliances, and equipment or the substitution of non-water-using fixtures, appliances, and equipment;
- (9) water-conserving landscape irrigation equipment;
- (10) landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
 - (A) landscape contouring, including the use of berms, swales, and terraces; and
 - (B) the use of soil amendments that increase the water-holding capacity of the soil, including compost;
- (11) rainwater harvesting equipment and other equipment to make use of water collected as part of a storm-water system installed for water quality control;
- (12) equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;
- (13) equipment needed to capture water from non-conventional, alternate sources, including air conditioning condensate or graywater, for non-potable uses;
- (14) metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or

- (15) other energy or water conservation-related improvements or equipment, including improvements or equipment related to renewable energy or non-conventional water sources or water reuse.

17.81. Standards for Energy Savings Performance Contract Projects.

(a) Institutional Standards. The institution shall demonstrate that an Energy Savings Performance Contract project complies with the standards required in Section 17.30(1)(A) - 17.30(1)(B) (relating to Deferred Maintenance and Critical Deferred Maintenance).

(b) Project Standards. Energy Savings Performance Contract Projects shall be considered under the provisions of Sections Section 17.40(2) of this title (relating to Project Standards) and Section 17.41 of this title (relating to Additional Requirements).

17.82. Additional Requirements.

(a) In addition to those outlined in Section 17.21 of this title (relating to Application Procedures), a statement shall be included with the application, certified by a Professional Engineer licensed in the State of Texas who shall not be an officer or employee of the offeror for the contract, the institution seeking approval, or otherwise associated with the contract, that:

(1) the contract has been reviewed in accordance with the International Performance Measurement and Verification Protocol (IPMVP) and/or the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Guidelines; and

(2) that the contract meets the following guidelines:

(A) The contract complies with any and all applicable federal, state and local statutes;

(B) The contract contains an energy audit report, a measurement and verification plan that documents current energy consumption, and a detailed calculation of energy savings as a direct result of the project;

(C) The savings achieved over the specified term is equal to or greater than the cost of the project; and

(D) The contract meets the guidelines specified in Texas Education Code, Section 51.927, (relating to Energy Savings Performance Contracts).

(b) The institution shall provide to the Board a copy of the signed contract within 30 days of the effective date of the contract.

CHAPTER 17. CAMPUS PLANNING

Subchapter J. RULES APPLYING TO TUITION REVENUE BOND PROJECTS

Section

17.90. Standards for Tuition Revenue Bond Projects.

17.91. Projects Not Meeting Board Standards.

17.90. Standards for Tuition Revenue Bond Projects.

Unless specifically exempted by legislative authority, each Tuition Revenue Bond Project shall be submitted to the Board for an evaluation to determine if the project meets the following standards:

(1) Institutional Standards. The institution shall demonstrate that the Tuition Revenue Bond project complies with the standards required in Section 17.30(1)(A) - 17.30(1)(B) of this title (relating to Deferred Maintenance and Critical Deferred Maintenance).

(2) Project Standards. The following basic standards shall apply to all Tuition Revenue Bond projects considered by the Board, Committee on Campus Planning, or the Commissioner:

(A) Tuition Revenue Bond Projects for a new construction and/or addition shall be considered under the provisions of Section 17.30(2) of this title (relating to Project Standards).

(B) Tuition Revenue Bond Projects for repair and renovation shall be considered under the provisions of Sections 17.40(2) of this title (relating to Project Standards and Section 17.41 of this title (relating to Additional Requirements).

(3) Real Property. Tuition Revenue Bond Projects for the acquisition of real property shall be considered under the provisions of Sections 17.50 – 17.51 of this title (relating to Rules Applying to Real Property Acquisition Projects).

(4) Auxiliary Enterprise Projects. Tuition Revenue Bond Projects for auxiliary enterprises shall be considered under the provisions of Section 17.60 of this title (relating to Rules Applying to Auxiliary Enterprise Projects).

(5) Intercollegiate Athletic Projects. Tuition Revenue Bond Projects for intercollegiate athletics shall be considered under the provisions of Sections 17.70 – 17.71 of this title (relating to Rules Applying to Intercollegiate Athletic Projects).

(6) Energy Savings Performance Contract Projects. Tuition Revenue Bond Projects that include an energy savings performance contract shall be considered under the provisions of Sections 17.80 – 17.82 of this title (relating to Rules Applying to Energy Savings Performance Contract Projects).

17.91. Projects Not Meeting Board Standards.

The Board shall notify the Governor, Lieutenant Governor, the Speaker of the House of Representatives, and the Legislative Budget Board the results of the evaluation.

Subchapter K. REPORTS

Section

17.100. Board Reports.

17.101. Institutional Reports.

17.100. Board Reports.

The Board shall annually prepare the following reports:

(1) Space Projection Model. The Board, in consultation with the institutions, shall develop space planning models to estimate the NASF of E&G space needed at institutions of higher education.

(A) Periodic Review. Each biennium, the Commissioner may convene an advisory committee of institutional representatives to review the model and recommend changes.

(B) Use. The Board shall use the models developed under this section to determine the need for space on campuses, as a component of funding formulas for public institutions other than community colleges, and in the evaluation of facilities development projects.

(2) Space Utilization. The Board shall collect data and publish reports designed to inform the public and other state agencies of the intensity of use of E&G facilities at institutions of higher education. Classroom and class lab utilization data are not calculated for health-related institutions.

(A) Periodic Review. The Board shall annually calculate the utilization of classrooms and class laboratories for the institutions.

(B) Use. The Board shall use the models developed under this section to determine the utilization of classrooms and class laboratories for the institutions.

(3) Deferred Maintenance and Replacement Value. The Board shall collect data and publish reports on institutional deferred maintenance designed to inform the public and other state agencies of the condition and value of facilities at institutions of higher education.

(A) Periodic Review. This report shall annually calculate and report a replacement value of E&G facilities that reflects the cost to replace the function of a facility.

(B) Use. The Board shall use the data on deferred maintenance and replacement value to determine compliance with Board standards and shall include the results in its annual report as required by Texas Education Code, Section 61.0582.

(4) Construction Costs.

(A) Periodic Review. The Board shall annually (not later than October 1 of each year) calculate and report average construction building costs per square foot. The costs shall be based on similar projects approved by the Board, within the immediate prior five years, annually adjusted for inflation. As a minimum, the calculations shall be developed for the following project types and shall be published on the agency website.

- (i) New construction/addition;
- (ii) Repair and renovation;
- (iii) Parking construction costs; and
- (iv) Housing costs per bed for residential projects.

(B) Use. The Board shall use the data on construction costs to evaluate project applications and any other required or requested analyses.

17.101. Institutional Reports.

Institutions of higher education shall submit current data to the Board for the following reports:

(1) Facilities Inventory.

(A) Periodic Review. Institutions shall report a record of all property, buildings, and rooms occupied or in the control of an institution in a format specified by the Board.

- (i) The inventory of facilities shall be updated on an ongoing basis.
- (ii) The inventory is subject to periodic audits.
- (iii) The inventory shall be certified by the institution annually on or before December 15, or as specified by the Board.

(B) Use. The Board shall use the data reported in the facilities inventory to evaluate project applications, perform facilities audits, to determine compliance with Board Standards, and other required or requested analyses. The facilities inventory shall be used to complete the following reports as required by this section:

- (i) the Space Projection Model;
- (ii) calculation of replacement values; and
- (iii) calculation of classroom and class lab utilization.

(2) Facilities Development Reports. The Board shall consider projects that are included in the facilities development plans (MP1 and MP2). A project that is not included in the plan may be considered if the Board determines that the institution, even with careful planning, could not reasonably have foreseen the project need.

(A) Facilities Development Plan (MP1). On or before July 1 of every year, beginning in 2004, an institution shall submit an update to its Facilities Development Plan (MP1) on file with the Board, as required by Texas Education Code, Section 61.0582. In every even-numbered year, the Board shall provide Facilities Development Plan data to the Bond Review Board for inclusion in the Capital Expenditure Report. The report shall include:

(i) any proposed new construction greater than \$250,000, repair and rehabilitation greater than \$1,000,000, information resource project greater than \$1,000,000, and property purchases for any amount that may be submitted within the next five years to the Board, regardless of funding source;

(ii) the funding source for any planned project identified in paragraph 2(A)(i) of this section; and

(iii) a description of the proposals the institution plans to finance with the Higher Education Assistance Fund or Permanent University Fund.

(B) Campus Deferred Maintenance Plan (MP2). On or before October 15 of every year, an institution shall submit an update to its Campus Deferred Maintenance Plan (MP2) on file with the Board. The report shall include:

(i) a list of an institution's facilities backlogged or deferred maintenance needs for the next five years that cost \$10,000 or greater;

(ii) the amount the institution plans to designate each fiscal year for the next five years to address the backlogged or deferred maintenance reported in the Campus Deferred Maintenance Plan;

(iii) the amount of an institution's facilities critical backlogged or deferred maintenance needs for the next five years that cost \$10,000 or greater;

(iv) a plan to address deferred maintenance if a project is delayed three years beyond its originally scheduled completion date; and

(v) an explanation for the delay in a project and a plan to address deferred maintenance if a project has remained on the institution's MP4 report for a third year.

(C) Campus Addressed Deferred Maintenance Report (MP4). On or before October 15 of every year, an institution shall submit an update to its Campus Addressed Deferred Maintenance Report (MP4) on file with the Board.

The report shall include the amount of backlogged or deferred maintenance addressed in previous fiscal year.

(3) Project Status and Tracking Reports.

(A) Annually, from the date of approval, institutions shall report the status of an approved project to the Board. Reporting to the Board on an annual basis shall cease after the construction project is placed into service and included in the Facilities Inventory Report, or the property acquisition is completed, or the renovation shall be reported to be complete. The report shall include, but is not limited to:

- (i) approved and actual project cost;
- (ii) approved and actual building cost;
- (iii) approved and actual GSF;
- (iv) approved and actual NASF;
- (v) approved and actual E&G NASF;
- (vi) approved and actual source(s) of funding; and

(B) If the actual costs, square footage, or source(s) of funding changed beyond the thresholds defined in Section 17.14 of this title (relating to Re-approval of Projects), the institution shall submit a project application requesting re-approval of the project and include a justification for the delay in the request.

(4) Governing Board Approved Projects. Institutions shall report to the Board annually, on a form specified by the Board, all projects approved by the institution's governing board but not requiring Board approval that add E&G space to the institution's facilities inventory. The report shall be submitted electronically not later than December 1 of each year.

(5) Other Reports. Institutions are required to submit such other reports required by the Board.

CHAPTER 17. CAMPUS PLANNING

Subchapter L. FACILITIES AUDIT

Section

- 17.110. General Provisions.
- 17.111. Facility Audit Objectives
- 17.112. Data Sources.
- 17.113. Institutional Audit Cycle.
- 17.114. On-Site Audit.

17.110. General Provisions.

(a) The Board shall periodically conduct a comprehensive audit of all education and general facilities on the campuses of institutions to verify the accuracy of the institutional facilities inventory and approved facilities development projects for each of those institutions.

(b) The Board may contract with a recognized accounting firm with substantial experience in auditing facilities to conduct the audit of the institution. The accounting firm selected to conduct the audits shall report the results of those audits directly to the Board through its Committee on Campus Planning.

(c) Institutions may request assistance from the Board to conduct audits of facilities. Costs for such requests shall be the responsibility of the requesting institution.

17.111. Facilities Audit Objectives.

The objectives of the audit are to determine whether selected institutions of higher education:

- (1) are accurately reporting their facilities data to the Board;
- (2) have control systems in place over their facilities development and management programs;
- (3) have followed the Board rules and received approval by the Board and the institutional governing board for facilities projects; and
- (4) approved facilities projects have been completed as specified in the request.

17.112. Data Sources.

As a minimum, the following Board data sources shall be used in the course of the audit:

- (1) Institutional Facilities Development Plans (MP1);
- (2) Institutional Deferred Maintenance Plans and Reports (MP2,MP4);
- (3) Campus Master Plans;
- (4) Space Model Projection Reports;
- (5) Reports required by the Educational Data Center;
- (6) Facilities Inventory Reports;
- (7) Facilities Development and Improvement Applications and Approvals;
- (8) Classroom and Class Laboratory Utilization Reports;

- (9) Deferred Maintenance and Replacement Value Calculations;
- (10) Institutional Facilities Condition Audit Reports;
- (11) Institutional Energy Contracts;
- (12) Governing Board facilities approvals; and
- (13) Any other institutional data deemed appropriate by the auditor.

17.113. Institutional Audit Cycle.

(a) The Board shall determine the frequency and the scope of the audits authorized by this section; audits shall be limited to facilities planning, development, operation, and maintenance.

(b) Beginning in September 2005, each institution of higher education shall be reviewed a minimum of once each five years. Audits of institutions may be conducted more often than every five years upon the request of the institution, the Board, the Legislature, or another agency within revenue appropriated for this purpose.

(c) Not later than August 15 of each year, beginning in 2005, the Office of Campus Planning shall publish a schedule of audits for the succeeding fiscal year.

(d) The Board shall conduct a comprehensive audit of institutional facilities as provided for in this subsection, within revenue appropriated for this purpose, to determine if circumstances warrant a substantial audit by an independent auditing firm.

17.114. On-Site Audit.

(a) The institution shall reimburse the Board for the costs incurred in performing on site audits.

(b) The institution shall reimburse the Board for the costs of the audit not later than the 30th day after the date the institution receives a statement of audit costs paid by the Board under this subsection.

(c) The Board shall pay the costs of each audit under this section only from money appropriated to the Board and approved for that purpose by the Board.

(d) No later than 30 days after the Board receives an audit report, a copy of the report shall be filed with the institution, the applicable university system, the State Auditor, and the Legislative Budget Board.